

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0291P

**Withholding Tax
Calendar Years 1994, 1995, 1996**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty and interest assessed for the underpayment of withholding tax for calendar year 1994 and states the underpayment occurred primarily due to an administrative error when corrected W-2's were issued. In addition the 1994 deficiency was subsequently covered with their 1995 tax remittances which resulted in a refund for 1995 and the audit resulted in a total tax overpayment of \$10.09 for the years 1994 through 1996.

The department makes its determination based upon evidence contained in the file as no further information was provided.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in remitting the full amount of tax timely and whether reasonable cause exists for the department to waive the penalty.

An examination of corrected W-2 statements and a comparison of total wages to the amounts reported for federal tax purposes revealed a shortage in 1994. Taxpayer's 1995 overpayment was, in part,

associated with payments submitted to cover the 1994 shortage. None of these payments were moved to 1994 because no penalty and interest for late payment was submitted and the payments were credited to a period that coincides with the date the payment was made.

Taxpayer's reasoning that the underpayment of 1994 withholdings occurred primarily due to an administrative error is not reasonable cause for the waiver of penalty. Taxpayer included the 1994 tax liability in its 1995 remittances, thereby avoiding the payment of interest and penalty.

FINDING

Taxpayer's protest is denied.